IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

CRL.A.No. 301 of 2001()

CC.67/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHERTHALA

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APPELLANT:

PURUSHOTHAMAN,
S/O.KUTTACHAN KADAVIL,
WARD NO.10,
PUZHUPUNNA PANCHAYAT,
ALAPPUZHA DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN

RESPONDENTS:

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1. PURUSHAN, S/O.CHATHAN,
KOYIPPURATH HOUSE,
WARD NO.4,
EZHUPUNNA,
ALAPPUZHA DISTRICT

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.S.AMINA
PUBLIC PROSECUTOR, SRI THOMAS AMBOOKEN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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Crl.A. No.301 of 2001 (A)

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Dated this the 15th day of March, 2007

J U D G M E N T

The first respondent herein was the second accused in C.C.No.67/1997 on the file of Judicial Magistrate of the First Class Court-II, Cherthala. There were all together six accused. After appreciating the evidence adduced by the prosecution which consists of five witnesses and three documents, together with DW.1, a defence witness, the lower court found all the accused, except the second accused, guilty, and, therefore, convicted and sentenced them for various punishments under Sections 323 and 324 of the Indian Penal Code read with Section 34 I.P.C. The second accused was acquitted. The said acquittal is under challenge through this appeal on obtaining leave.

2. When the appeal came up for consideration, it was brought to my notice that the convicted accused had challenged the same before the Additional Sessions Court, Alappuzha, through Crl.A.No.15/2000. During the pendency of the appeal, the de facto complainant, at whose instance a private complaint was filed against all the accused, including the first

respondent herein and the appellants who were convicted, filed a compounding petition, praying for sanction under Section 320 (2) of the Code of Criminal Procedure. As per the order dated 02/07/2001, the Additional Sessions Court, Alappuzha, granted sanction and, therefore, the matter between the convicted accused-appellants and the de facto complainant were compounded. The appellants therein were acquitted under Section 320(8) Cr.P.C.

3. In the compounding application it was averred that with the intervention of the mediators and also with the negotiations between the de facto complainant and the other persons, they have compromised the matter among themselves. It is true that the first respondent, the second accused, in the case is not a signatory to the compounding application. But as the parties have already compounded, I find no reason to interfere with the acquittal passed by the Judicial Magistrate of the First Class Court-II, Cherthala, in C.C.No.67/1997. Therefore, I find no merit in the appeal and the appeal is accordingly dismissed.

(J.M.JAMES)
Judge

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J.M.JAMES, J.

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Crl.A No. 301 of 2001 (A)

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J U D G M E N T

15th March, 2007